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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

DAWN QUANG TRAN,

Defendant and Appellant.

H034743

(Santa Clara County
Super.Ct.No. 205026)

Dawn Quang Tran, the defendant herein, appeals from an order that he is to remain confined at the Napa State Hospital until June 19, 2011.

Counsel for defendant has filed an opening brief that states the case and facts but raises no issues. We notified defendant of his right to submit written argument on his own behalf. Defendant did not do so.

We have, as required by *People v. Wende* (1979) 25 Cal.3d 436, and *People v. Kelly* (2006) 40 Cal.4th 106, set forth herein the facts, the procedural background (including a description of the crimes of which defendant was convicted), and the disposition of defendant's case; and we have reviewed the entire record. Having carried out these tasks, we find no reason not to affirm the judgment and will do so.

FACTS AND PROCEDURAL BACKGROUND

Defendant sexually assaulted a four-year-old girl. At the time, defendant was floridly psychotic: manic, hallucinating, and delusional. He believed that the girl was an adult female angel with whom it would be proper to engage in sexual relations.

Defendant was charged with violating Penal Code section 288, subdivision (b)(1), found not guilty by reason of insanity (see *id.*, § 1026, subd. (a)), and committed to two other state hospitals and eventually the Napa State Hospital.

The record does not contain the petition itself, but at some point the district attorney filed a petition under Penal Code section 1026.5, subdivision (b), to extend the commitment for two years. The statute authorizes a jury trial on the truth of such a petition, and the case was tried to a jury, which heard testimony from two mental health professionals and defendant.

A Napa State Hospital staff psychiatrist, Michael Bartos, M.D., testified that defendant continued to suffer from a severe form of a psychotic bipolar disorder, an illness also categorized as bipolar disorder–manic, and remained delusional. He lived in a locked unit at the state hospital. He thought he was cured but was not; within the last several months he had tried “to cleanse the devil out of him, for example,” staring at the sun for long minutes and endangering his eyesight. He was in a near-catatonic state for a period. He was not ready for release from the state hospital. “If he didn’t take his medication I think that he would get delusional real quick and hurt somebody or repeat a similar type offense that he did 12 years ago,” Dr. Bartos opined.

A clinical psychologist, Douglas Johnson, Ph.D., testified that defendant would be dangerous outside hospital walls if not medicated. He lacked insight into his condition, a “major mental illness which I would say is schizoaffective disorder,” and had not complied with his medication regime in the past.

On cross-examination, Johnson acknowledged that because of the size of his caseload he sometimes had to delegate patient reviews to assistants and that he had not personally performed the last few reviews of defendant’s case. His last significant evaluation visit with defendant had been about three years ago. Moreover, not all psychological tests that could be useful for evaluating defendant had been done.

On redirect examination, Johnson testified that the reason not all potentially useful tests had been done was that defendant was not ready for them and administering them would be premature or impractical.

Defendant testified in his own behalf. He testified initially that he was 30 to 32 years old but, on being reminded of his birthdate, clarified that he was about 44 years old. He had been confined in state hospital for approximately 11 years and wished to be released.

Defendant acknowledged that he was mentally ill in 1997, the year in which he attacked the girl. His girlfriend had broken up with him at the time, leaving defendant for his best friend, who “stole my girlfriend,” and defendant was experiencing distress as a result. He gained insight into his actions once hospitalized and placed on Seroquel (quetiapine), a medication, and felt sinful, embarrassed, and regretful.

Defendant offered conflicting testimony about his current mental state. He testified that he remained burdened by his illness and knew he needed to control it if released. On the other hand, he testified that “I don’t have anything now,” meaning he had no uncontrolled or extant symptoms.

Defendant had been amenable to being medicated at Napa, but resisted the higher doses Dr. Bartos began to administer. He would be willing to remain medicated if released.

On cross-examination, defendant testified that if he could choose whether to be medicated he would choose not to be.

The jury found the petition’s allegations to be true. Defendant was recommitted until June 19, 2011. He filed this appeal from the commitment order, as authorized by Penal Code section 1237.

DISCUSSION

We have, as noted, reviewed the entire record and examined it for any possible arguable issues on appeal. We agree with counsel for defendant that there is none. Therefore, we will affirm the judgment.

DISPOSITION

The judgment is affirmed.

Duffy, J.

WE CONCUR.

Bamattre-Manoukian, Acting P. J.

Mihara, J.